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**From:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Sent:** 11/2/2020 1:47:16 PM  
**To:** Wehling, Carrie [Wehling.Carrie@epa.gov]; Sweeney, Stephen [Sweeney.Stephen@epa.gov]; Wade, Alexis [Wade.Alexis@epa.gov]  
**Subject:** RE: NMFS letter says EFH assessment is not necessary

(To be clear, I don't know their rationale, but presumably Dave Ross will want us to defer to them on this question.)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Kupchan, Simma  
**Sent:** Monday, November 2, 2020 8:46 AM  
**To:** Carrie Wehling <Wehling.Carrie@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>  
**Subject:** NMFS letter says EFH assessment is not necessary

See attached. Looks like we can stand down. (Yay – can listen to Alexis' Supreme Court argument instead!) Carrie, do you want to just let David know quickly at your weekly with him this week? Seems like it might not warrant reg review time. Let me know what you think.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** 404Assumption-FL <404Assumption-FL@epa.gov>  
**Sent:** Monday, November 2, 2020 8:38 AM  
**To:** Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>  
**Cc:** McGill, Thomas <McGill.Thomas@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** FW: Federal Register notice: Florida's request to assume a CWA Section 404 program

Please see the NOAA letter attached that says they are not requesting we initiate EFH, are not offering conservation recommendations, and indicate further EFH consultation on this action is not necessary unless future modifications are proposed and we believe the resulting action may result in adverse impacts to EFH.

Kelly Laycock  
Wetlands Regulatory Section  
U.S. Environmental Protection Agency  
61 Forsyth St.  
Atlanta GA, 30303  
phone 404 562 9132

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**From:** David Dale - NOAA Federal <[david.dale@noaa.gov](mailto:david.dale@noaa.gov)>

**Sent:** Friday, October 30, 2020 5:22 PM

**To:** 404Assumption-FL <[404Assumption-FL@epa.gov](mailto:404Assumption-FL@epa.gov)>

**Cc:** Rusty Swafford - NOAA Federal <[rusty.swafford@noaa.gov](mailto:rusty.swafford@noaa.gov)>; Pace Wilber - NOAA Federal <[pace.wilber@noaa.gov](mailto:pace.wilber@noaa.gov)>; Ian Lundgren - NOAA Affiliate <[ian.lundgren@noaa.gov](mailto:ian.lundgren@noaa.gov)>; Susan Stedman <[Susan.Stedman@noaa.gov](mailto:Susan.Stedman@noaa.gov)>; David Bernhart - NOAA Federal <[david.bernhart@noaa.gov](mailto:david.bernhart@noaa.gov)>; \_NMFS ser HCDconsultations <[nmfs.ser.hcdconsultations@noaa.gov](mailto:nmfs.ser.hcdconsultations@noaa.gov)>

**Subject:** Re: Federal Register notice: Florida's request to assume a CWA Section 404 program

Mr. Laycock,

Please see the attached regarding our conversations related to EFH consultation on the subject matter.

Feel free to contact me if you have any questions.

Thanks,  
David

On 9/16/2020 1:14 PM, '404Assumption-FL' via \_NMFS ser HCDconsultations wrote:

On August 20, 2020, EPA Region 4 received a package from the State of Florida requesting to assume administration of a Clean Water Act (CWA) Section 404 program per the provisions of CWA Section 404(g)(1). The EPA is providing notice in the Federal Register that it has received a complete package at [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-HQ-OW-2018-0640, FRL-10014-54-Region 4. The notice: (1) solicits public review and comment on the State program during a period that ends on November 2, 2020; (2) announces two public hearings that will be held respectively on October 21, and 27, 2020; and (3) solicits public review and comment regarding consultation under the National Historic Preservation Act. To participate in one/both of the public hearings, please register at: <https://register.gotowebinar.com/register/4295139229196503819>. This notice is also posted on the EPA Region 4 website at: <https://www.epa.gov/aboutepa/about-epa-region-4-southeast>.

Kelly Laycock  
Wetlands Regulatory Section  
U.S. Environmental Protection Agency  
61 Forsyth St.  
Atlanta GA, 30303  
phone 404 562 9132

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**David Dale** Fishery Biologist, Habitat Conservation Division

Southeast Regional Office

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